

### **REMARKS**

Claims 1-34 are currently pending in the subject application and are presently under consideration. Claims 1-29 and 32-34 have been amended as shown at pp. 3-7 of the Reply. Claim 30 has been canceled. In addition, the specification has been amended as indicated at p. 2.

Applicant's representative thanks Examiner Theriault for the courtesies extended during a telephonic conversation conducted on May 24, 2007. The Examiner was contacted to discuss amendments to overcome the rejection under 35 U.S.C. §101, and interpretation of the cited prior art reference Bellotti (US 7,139,800) with respect to limitations of independent claims 1 and 30. Applicant's representative also appreciates the interview given on 25 June. Although agreement was not reached as to claim amendments that would distinguish the cited reference, Applicant's representative has incorporated herein claim amendments and arguments that encompass the remarks made during the Interview.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

#### **I. Objection to Drawings**

The drawings were objected to as failing to comply with 37 CFR §1.84(p)(5) in view of minor informalities. The specification has been amended at line 8, page 8, and withdrawal of the objection is respectfully requested.

#### **II. Rejection of Claims 24-30 and 34 Under 35 U.S.C §112**

Claims 24-30 and 34 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Withdrawal of the rejection is respectfully requested in view of the amendments to dependent claims 23 and 34.

#### **III. Rejection of Claims 1-29 and 31-33 Under 35 U.S.C. §101**

Claims 1-29 and 31-33 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. All of the pending claims have been amended to recite a statutory class of invention to obviate the rejection. Claims 1-22 have been amended to recite a *computer implemented system*. Claims 23-30 have been amended to recite a *computer implemented*

method. Claim 32 has been amended to recite a computer readable *storage* medium. Claims 32-33 have been amended to recite a *computer implemented* system.

In rejecting claim 31, the Examiner noted that a “data packet is not a process, machine, article of manufacture or composition of matter.” However, the test for nonstatutory subject matter under 35 U.S.C. 101 does not begin and end at this definition. Instead, the claimed invention provides a “useful, concrete and tangible result.” State Street, 149 F.3d at \*1373-74, 47 USPQ2d at 1601-02, and thus satisfies 35 U.S.C. 101 as statutory subject matter.

Withdrawal of the rejection is respectfully requested.

#### **IV. Objection to Specification**

The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter in that claims 31 and 32, respectively, cite data packet and computer readable medium. First, the terminology used in claims as originally filed are deemed as part of the disclosure of the original Specification. Second, applicant’s representative asserts that antecedent basis is provided for “data packet” with regard to the description of FIG. 7 in the paragraph beginning at line 11, page 16 based at least upon the description for a “packet switching network”, which one of ordinary skill in the art would recognize, such as supported in the following dictionary definition:

“data packet” -- The compartmentalized pieces of information into which a message in a packet switched system is broken. The American Heritage® New Dictionary of Cultural Literacy, Third Edition. Houghton Mifflin Company, 2005. Accessed 12 May. 2007. <Dictionary.com  
[http://dictionary.reference.com/browse/data packet](http://dictionary.reference.com/browse/data+packet)>.

Similarly, applicant’s representative asserts that proper antecedent basis is provided with regard to “computer readable medium” by at least the disclosure of the paragraph beginning at line 7, page 15 wherein frequent mention is made of storage medium accessed by the computer, citing examples of “disk storage 724 [that] includes, but is not limited to, magnetic disk drive, floppy disk drive, tape drive, Jaz drive, Zip drive, LS-100 drive, flash memory card, or memory disk ... an optical disk drive ...” It is noted that each example satisfies a commonly understood definition for computer readable medium:

Machine-readable": The term machine-readable (or computer-readable) refers to information encoded in a form which can be read (i.e., scanned/sensed) by a machine/computer and interpreted by the machine's hardware and/or software.

From Wikipedia, the free encyclopedia <<http://en.wikipedia.org/wiki/Machine-readable>> accessed 12 May 2007.

**V. Rejection of Claims 1-34 Under 35 U.S.C. §103(a)**

Claims 1-34 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bellotti, *et al.* (US 7,139,800). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Bellotti, *et al.* fails to teach or suggest each and every limitation of applicants' claimed computer implemented system, computer implemented method, computer-readable storage medium of each independent claim 1, 23, 31, 32, and 33 having been amended to recite the additional feature of dependent claim 30. Each is directed to partitioning and making available *content into more than one cluster* as part of at least the following clusters: (1) unaccessed content, (2) unaccessed and pending content, (3) pending content, and (4) accessed content.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See* MPEP §706.02(j). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *See In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

A problem addressed by the claimed invention is that generally-known e-mail systems use folders that make stark divisions where only one folder is viewed at a time. Hence, a particular message cannot serve multiple activities at once. (*See e.g.*, p. 1, lines 20-28) The claimed invention improves visualization of messages in a user's inbox by clustering messages into four groups: unaccessed; unaccessed and pending; pending; and read. This allows for a user

to more efficiently handle large volumes of messages in a prioritized way. Additionally, it supports a seamless flow between triage of new messages, management of recently received messages, and retrieval of recent as well as older messages for the user. Messages can include conversations between a user and one or more contacts, email (electronic mail) messages, voice messages, images, documents, tasks, as well as other forms of media. (See Abstract) To allow any one message to serve multiple purposes or be utilized in more than one activity, any one message can exist in more than one cluster at a time. (See p. 8, lines 3-8)

In rejecting the additional feature of claim 30 of putting content and/or copy into more than one cluster, the Examiner relied upon Bellotti at col. 7, lines 1-22. However, rather than teaching or suggesting placing content/copy into multiple clusters for improved visualization, Bellotti teaches placing a thrask into one of three viewing panes (col. 5, lines 60-61) that provide additional information about a selected thrask:

The display module 206 causes display, in the first viewing pane, of some of the thrasks, and in the second viewing pane a list of the information items of a single thrask selected from the displayed thrasks, and in the third viewing pane some of the content of an information item selected from the list of displayed informations. for each of the displayed information items in the second viewing pane, respective metadata may be displayed. (col. 6, lines 9-16).

Bellotti mentions “copy” in the excerpt cited by the Examiner; however, Bellotti is teaching a single visualization by the “TaskMaster” of the three panes with a copy being made from the generally-known e-mail system (See col. 5, lines 26-56). To the extent that another copy of the message exists in another software product, however, fails to teach or suggest copying for improved visualization but rather is used to improve acceptance by not requiring substitution of a currently used e-mail system with the disclosed TaskMaster. With the teaching of using multiple visualizations to provide a “vertical” representation of increasing detail about a particular thrask, Bellotti teaches away from a “horizontal” clustering of contents to convey a different sense of content. By analogy, Bellotti seeks to view the tree while the claimed invention seeks to view the forest.

A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). Moreover,

the Federal Circuit has held that teaching away from the art of the subject invention is a per se demonstration of lack of prima facie obviousness. *In re Dow Chemical Co.*, 837 F.2d 469, 5 USPQ2d 1529 (Fed. Cir. 1988).

Since the cited reference fails to teach or suggest the claimed combination, reconsideration and allowance of claims 1-29 and 31-34 is respectfully requested.

#### CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP554US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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